

**RESOLUTION OF THE NEW YORK STATE BROADCASTERS ASSOCIATION OPPOSING
THE PROPOSED MERGER OF
XM AND SIRIUS SATELLITE RADIO COMPANIES**

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WHEREAS, XM and Sirius Satellite radio companies have announced their plans to form a government-sanctioned monopoly leaving only one company functioning in the satellite radio market; and

Federal Communications Commission
Office of the Secretary

WHEREAS, the New York State Broadcasters Association is a trade association consisting of 700 members in the state of New York representing radio and televisions stations and companies and individuals that supply and use broadcast-related, post-production, multimedia and telecommunication equipment and services; and

WHEREAS, the New York State Broadcasters Association believes that such a merger creating a total government-sanctioned monopoly in the satellite radio market will be harmful to consumers, musicians, broadcasters and the public because the resulting monopoly:

- violates current Federal Communication Commission rules prohibiting only one provider of satellite radio in the satellite radio market;
- will be able to exercise unlimited market power which will allow it to raise subscription rates without limit, reduce program diversity and cause subscribers to incur long-run equipment costs;
- will be able to monopolize national and regional programming such as sports and entertainment events through exclusive arrangements;
- will exploit its monopoly power and unfairly compete with other media for national advertising by offering artificially low (subsidized) advertising rates; and
- will cross-subsidize its offering of new services and unfairly compete with local radio stations through its monopolization of the only national multi-channel, mobile, radio service in the country.

WHEREAS, in 1997 when the Federal Communications Commission first considered the issuance of licenses for satellite radio services, Sirius' predecessor filed comments with the Commission arguing that multiple providers were necessary to assure competition, guarantee program diversity and expressing concern that allowing mergers such as this to occur in the future would "have serious anticompetitive repercussions;" and

WHEREAS, the satellite radio market has not changed significantly to justify altering current federal regulatory prohibitions against such mergers; and

WHEREAS, given the past history of violating Federal Communication Commission rules by both XM and Sirius there is ample cause to be concerned and alarmed that any concessions agreed to by the merging parties will not be fulfilled; and

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WHEREAS, the New York State Broadcasters Association believes that competition is the cornerstone to an efficient and fair marketplace and that it is wrong for the government to sanction a monopoly in the satellite radio market and thereby disadvantage consumers, musicians, broadcasters and the public; now, therefore, be it

RESOLVED by the New York State Broadcasters Association, That the Congress, the Federal Communications Commission, the Attorney General of the United States and the Justice Department and the Attorney General for the State of New York be urged to oppose any merger between the only two competing satellite radio companies and refrain from sanctioning a monopoly that such a merger will create; and

RESOLVED FINALLY, That the President of the New York State Broadcasters Association transmit copies of this resolution to the:

- o Attorney General of New York State,
- o President of the United States Senate,
- o Speaker of the U.S. House of Representatives,
- o Members of the New York State Congressional Delegation,
- o Commissioners of the Federal Communications Commission, and
- o Attorney General for the United States

so that they may be apprised of the sense of the New York State Broadcasters Association in this matter.